

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

GLORIA WARREN

PLAINTIFF

v.

CASE NO. 3:05-CV-260

**STATE FARM FIRE & CASUALTY COMPANY, and
COUNTRYWIDE HOME LOANS, INC.**

DEFENDANTS

ORDER

Presently before the Court is the Plaintiffs' Motion to Remand. This case was removed upon petition by Defendant State Farm Fire & Casualty Company ("State Farm"), from the Crittenden County Circuit Court to the Eastern District on the basis of federal diversity jurisdiction.

Plaintiffs argue that remand is appropriate because Defendant Countywide Home Loans, Inc. ("Countrywide") has been served but did not join in the Petition for Removal. Defendant State Farm contends that Defendant Countrywide was not served at the time it filed its petition for removal, so unanimity with Defendant Countrywide on the removal petition is not required.

The United States Supreme Court held, "Where there is a non-separable controversy with respect to several non-resident defendants, one of them may remove the cause, although the other defendants have not been served with process and have not appeared. In such a case there is diversity of citizenship, and the reason for the rule is stated to be that the defendant not served may never be served, or may be served after the time has expired for the defendant who has been served to apply for a removal, and unless the latter can make an effective application alone, his right to removal may be lost." *Pullman Co. v. Jenkins*, 305 U.S. 534, 540-41, 59 S.Ct. 347, 351 (1939).

Here, Defendant State Farm was served on November 3, 2005, and it filed the petition for

removal on November 14, 2005; however, Defendant Countrywide was served on November 17, 2005 and filed its responsive pleading on December 19, 2005. Under these circumstances, it appears that this matter was properly removed to federal court as both State Farm and Countrywide are non-resident Defendant corporations, so Defendant Countrywide's failure to join in the Petition for Removal does not render removal to this Court inappropriate.

IT IS THEREFORE ORDERED that the Plaintiff's Motion to Remand (Dkt. #6) be, and it is hereby, DENIED.

IT IS FURTHER ORDERED that the Plaintiff's Motion to Stay Proceedings (Dkt. #18) be, and it is hereby, DENIED as moot.

Dated this 23rd day of January, 2006.

/s/Garnett Thomas Eisele
UNITED STATES DISTRICT JUDGE